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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,434	09/02/2004	Shinya Nagata	5553NA1-1	1269
62574	7590	06/16/2010		
Jason H. Vick Sheridan Ross, PC Suite # 1200 1560 Broadway Denver, CO 80202			EXAMINER BEHRINGER, LUTHER G	
			ART UNIT 3766	PAPER NUMBER
			NOTIFICATION DATE 06/16/2010	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jvick@sheridanross.com

# Office Action Summary

**Application No.**

10/506,434

**Applicant(s)**

NAGATA ET AL.

**Examiner**

Luther G. Behringer

**Art Unit**

3766

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 April 2010.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,6,8-12 and 14 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1,2,6,8-12 and 14 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 04 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statements (PTO/SB06)  
Paper No(s)/Mail Date 04/14/2010  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ ~~Notes of Informal Patent Application~~  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This office action is in response to the communication received on 04/14/2010 concerning application no. 10/506434 filed on 09/02/2004.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/14/2010 has been entered.

#### ***Response to Arguments***

3. Applicant's arguments with respect to claim(s) 1, 2, 6, 8 – 12 and 14 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 112***

4. Applicant's amendment presented 04/14/2010 has obviated the necessity of the 35 USC 112 rejection presented 01/04/2010. Therefore that rejection is withdrawn.

5. Claim(s) 1, 2, and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim(s) 1, 2, and 14 recite "wherein *leads of ECG chart data* are grouped according to each potion of the heart" which is unclear (emphasis added). In the interest of clarity, the examiner is suggesting the following

language in a future amendment: "wherein ECG chart data is displayed with labels of the heart leads that contribute data to the feature value;".

### ***Claim Objections***

6. Claim(s) 1, 2 and 14 are objected to because of the following informalities: The claims recite "wherein the chart data is displayed where each feature is displayed correlated". It appears that applicant is intending "wherein the chart data is displayed such that each feature displayed is correlated".
7. Additionally in these claims, the phrase "means for generating chart data corresponded" appears to be utilizing the incorrect tense of the verb "corresponded."
8. Claim 6 is objected to because of the following informalities: The phrase "means for controlling display for varying the display style" appears redundant.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claim(s) 1, 2, 6, 9 – 12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by **Selvester et al. (US 6,230,048, herein Selvester)**.

Regarding **claim(s) 1, 2 and 14**, Selvester discloses an electrocardiogram (ECG) chart data-generating device for generating chart data to be used to display charts

based on measured ECG data, comprising: means for generating feature value data indicating an ECG feature value with regard grouped ECG data (Col. 8, l. 25 – Col. 9, l. 5), wherein leads of ECG data are grouped according to each portion of the heart (Col. 9, ll. 53 – 62); and means for generating chart data corresponded to each portion of the heart, wherein the chart data is used to display a chart in which the feature value of each group represented by the feature value data is displayed (Col. 9, ll. 38 – 48); and wherein the chart data is displayed where each feature value is displayed correlated with the corresponding physical location of the heart from which the feature values is measured (Col. 9, ll. 53 – 62).

With regard to **claim 6**, Selvester discloses means for controlling display for varying the display style of the feature value when the feature value is in an abnormal range (Col. 4, l. 49 – Col. 5, l. 11).

Regarding **claim 9**, Selvester discloses wherein the chart data is displayed in a chart that relates the feature value to each portion of the heart including at least left portion of the heart, right portion of the heart, bottom portion of the heart, front portion of the heart, or inner portion of the heart (Col. 4, l. 49 – Col. 5, l. 11).

With regard to **claim 10**, Selvester discloses wherein the feature value data is based on the constituent elements of an ECG including at least P wave, Q wave, R wave, S wave, ST segment, or T wave (Col. 1, ll. 58 – 65).

Regarding **claim 11**, Selvester discloses wherein the chart data is displayed in the feature value in a radar chart form (Figs. 6B, 7A – 7B, 14A – 14B).

With regard to **claim 12**, Selvester discloses wherein the chart data is displayed in the feature value on a heart image (Figs. 6A – 7B, & 11A – 13B).

***Claim Rejections - 35 USC § 103***

11. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
12. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Selvester et al. (US 6,230,048, herein Selvester)** in view of **Schuelke et al. (US 6,112,119, herein Schuelke)** (cited previously).

With regard to **claim 8**, Selvester fails to disclose wherein the display controlling means or means for displaying the abnormal value is to hold display of the feature value constant even when the feature value varies within a normal range.

However, Schuelke teaches wherein the display controlling means or means for displaying the abnormal value is to hold display of the feature value constant even when the feature value varies within a normal range (Col. 26, ll. 7 – 16).

13. A person of ordinary skill in the art, upon reading the reference, would have recognized the desirability of maintaining a display in a normal range while receiving acceptable deviations to reduce false alarms due to observation of normal deviations of the signal. Thus, it would have been obvious to a person having ordinary skill in the art at the time of the invention to modify Selvester to include maintaining a display in a normal range while receiving acceptable deviations as taught by Schuelke, since doing so would reduce distractions observed by a practitioner due to false alarms allowing efficient, effective treatment of a patient.

***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See form PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luther G. Behringer whose telephone number is (571)270-3868. The examiner can normally be reached on Mon - Thurs 9:00 - 6:30; 2nd Friday 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Layno can be reached on (571) 272-4949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Carl H. Layno/  
Supervisory Patent Examiner, Art Unit 3766

/Luther G Behringer/  
Examiner, Art Unit 3766